

FIRST REGULAR SESSION

# SENATE BILL NO. 142

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR NODLER.

Pre-filed December 1, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

0531S.011

## AN ACT

To repeal sections 160.900, 160.905, 160.910, 160.915, 160.920, 160.925, 160.930, and 376.1218, RSMo, and to enact in lieu thereof seven new sections relating to the elimination of the sunset provision of the early intervention program for infants and toddlers with disabilities.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 160.900, 160.905, 160.910, 160.915, 160.920, 160.925, 2 160.930, and 376.1218, RSMo, are repealed and seven new sections enacted in 3 lieu thereof, to be known as sections 160.900, 160.905, 160.910, 160.915, 160.920, 4 160.925, and 376.1218, to read as follows:

160.900. 1. The state of Missouri shall participate in the federal Infant 2 and Toddler Program, Part C of the Individuals with Disabilities Education Act 3 (IDEA), 20 U.S.C. Section 1431, et seq., and provide early intervention services 4 to infants and toddlers determined eligible under state regulations.

5 2. The state agency designated by the governor as the lead agency shall 6 be responsible for the administration and implementation of Part C of IDEA 7 through a regional Part C early intervention system and shall promulgate rules 8 implementing the requirements of Part C of IDEA consistent with federal 9 regulations, 34 C.F.R. 303, et seq.

10 3. Any rule or portion of a rule, as that term is defined in section 536.010, 11 RSMo, that is created under the authority delegated in sections 160.900 to 12 160.925 shall become effective only if it complies with and is subject to all of the 13 provisions of chapter 536, RSMo, and, if applicable, section 536.028, 14 RSMo. Sections 160.900 to 160.925 and chapter 536, RSMo, are nonseverable and 15 if any of the powers vested with the general assembly pursuant to chapter 536,

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

16 RSMo, to review, to delay the effective date, or to disapprove and annul a rule are  
17 subsequently held unconstitutional, then the grant of rulemaking authority and  
18 any rule proposed or adopted after July 1, 2005, shall be invalid and void.

19 **4. Notwithstanding the provisions of section 23.253, RSMo, to the**  
20 **contrary, the provisions of this section shall not sunset.**

160.905. 1. The lead agency shall establish a "State Interagency  
2 Coordinating Council" for the state Part C early intervention system. The  
3 composition of the council shall include the members required under Part C of the  
4 IDEA consistent with federal regulations, 34 C.F.R. 303.601, appointed by the  
5 governor.

6 2. The state interagency coordinating council shall meet at least quarterly  
7 and shall comply with chapter 610, RSMo.

8 3. The state interagency coordinating council shall advise and assist the  
9 lead agency pursuant to IDEA requirements, 34 C.F.R. 303.650 to 303.654.

10 4. The state interagency coordinating council shall assist the lead agency  
11 in the preparation and submission of an annual report to the governor and to the  
12 secretary of the United States Department of Education on the status of infant  
13 and toddler early intervention programs in the state and report any  
14 recommendations for improvements to such programs.

15 5. The lead agency, in consultation with any other state agencies involved  
16 in the Part C early intervention system, shall submit rules and regulations, other  
17 than emergency rules and regulations, to the council for review prior to the lead  
18 agency's final approval. The council shall review all proposed rules and  
19 regulations and report its recommendations thereon to the lead agency within  
20 thirty days. The lead agency shall respond to the council's recommendations  
21 providing reasons for proposed rules and regulations that are not consistent with  
22 the council's recommendations.

23 **6. Notwithstanding the provisions of section 23.253, RSMo, to the**  
24 **contrary, the provisions of this section shall not sunset.**

160.910. 1. The lead agency shall maintain a state Part C early  
2 intervention system under Part C of the Individuals with Disabilities Education  
3 Act, 20 U.S.C. Section 1431, et seq., for eligible children and families of such  
4 children which shall be administered through the regional Part C early  
5 intervention system.

6 2. The lead agency shall compile data in the system on the number of  
7 eligible children in the state in need of early intervention services, the number

8 of eligible children and their families served, the types of services provided, and  
9 other information as deemed necessary by the agency.

10 3. The state Part C early intervention system shall include a  
11 comprehensive child-find system and public awareness program to ensure that  
12 eligible children are identified, located, referred to the system, and evaluated for  
13 eligibility.

14 4. The lead agency shall monitor system expenditures for administrative  
15 services and regional offices to ensure maximum utilization of state funds for all  
16 children determined to be eligible for early intervention services. The lead  
17 agency or its designee shall provide regional offices with the necessary financial  
18 data to assist regional offices in monitoring their expenditures and the cost of  
19 direct services. Such data shall include the number of children eligible from the  
20 most recent child count from that region and monthly data reports on the costs  
21 spent by providers in their network.

22 5. The lead agency shall establish a bidding process for determining  
23 regional offices across the state. The bidding process shall establish criteria for  
24 allowing regions to implement models that will serve the unique needs of their  
25 community. Such process shall encourage organizations bidding for a center to  
26 demonstrate agreements:

27 (1) With other state and local government entities that provide services  
28 to infants and toddlers with developmental disabilities including regional centers  
29 as defined in section 633.005, RSMo, and boards established under sections  
30 205.968 to 205.973, RSMo; and

31 (2) To collaborate with established, quality early intervention providers  
32 in the region to establish a network for early intervention services.

33 6. The lead agency shall establish a centralized system of provider  
34 enrollment to assure that all Part C early intervention system providers meet  
35 requirements of Part C regulations and the Missouri state plan.

36 **7. Notwithstanding the provisions of section 23.253, RSMo, to the**  
37 **contrary, the provisions of this section shall not sunset.**

160.915. 1. Each regional office shall include in their proposal the  
2 following assurances and documentation of their plan to:

3 (1) Provide those functions that are specifically identified under federal  
4 and state regulations implementing Part C of IDEA, 20 U.S.C. Section 1431, as  
5 functions to be provided at public expense, with no cost to the parent;

6 (2) Contract with established community early intervention providers or

7 hire providers as geographic necessity requires to ensure all services are available  
8 and accessible within the region;

9 (3) Implement a system of provider oversight to ensure:

10 (a) That all services are available and accessible within that region  
11 including the use of providers hired by the regional office where geographic  
12 necessity requires this practice; and

13 (b) Compliance by all providers in the regional office's provider network,  
14 including but not limited to upholding the requirements of Part C of IDEA;

15 (4) Include in each child's individual family service plan family-oriented  
16 approaches to support the child's developmental goals;

17 (5) Incorporate as the focus of the individualized family service plan best  
18 available practices and coaching approaches that support the family's capacity to  
19 meet the developmental needs of their child;

20 (6) Develop or maintain resources or utilize multiple funding sources for  
21 providing early intervention services for children with disabilities in the region  
22 for which they are bidding; and

23 (7) Implement a system for reutilization of assistive technology devices  
24 and oversight of assistive technology authorizations.

25 2. The lead agency may determine other assurances and request  
26 additional documentation they deem to be necessary and reasonable to achieve  
27 the purpose of this section and to comply with applicable federal law and  
28 regulation.

29 **3. Notwithstanding the provisions of section 23.253, RSMo, to the**  
30 **contrary, the provisions of this section shall not sunset.**

160.920. 1. No funds appropriated to the lead agency for the  
2 implementation and administration of sections 160.900 to 160.925 shall be used  
3 to satisfy a financial commitment for services that should have been paid from  
4 another public or private source. Federal funds available under Part C of the  
5 IDEA, 20 U.S.C. Section 1431, et seq., shall be used whenever necessary to  
6 prevent the delay of early intervention services to the eligible child or  
7 family. When funds are used to reimburse the service provider to prevent a delay  
8 of the provision of services, the funds shall be recovered from the public or  
9 private source that has ultimate responsibility for the payment.

10 2. Nothing in this section shall be construed to permit any other state  
11 agency providing medically related services to reduce medical assistance to  
12 eligible children.

13           3. Payments for the provision of direct early intervention services to  
14 children and families shall be paid in the manner prescribed by the lead agency.

15           4. The lead agency shall promulgate rules for the reimbursement of  
16 services from all third-party payers, both private and public.

17           5. The lead agency or its designee shall, in the first instance and where  
18 applicable, seek payment from all third-party payers prior to claiming payment  
19 from the state Part C early intervention system for services rendered to eligible  
20 children.

21           6. The lead agency or its designee may pay required deductibles, co-  
22 payments, coinsurance or other out-of-pocket expenses for a Part C early  
23 intervention program eligible child directly to a provider.

24           7. The lead agency shall promulgate rules that establish a schedule of  
25 monthly cost participation fees for early intervention services per qualifying  
26 family regardless of the number of children participating or the amount of  
27 services provided. Such fees shall not include services to be provided to the  
28 family at no cost as established in Part C of IDEA, 20 U.S.C. Section 1431, et  
29 seq. Fees shall be based on a sliding scale to become effective October 1, 2005,  
30 that contemplates the following elements:

31           (1) Adjusted gross income, family size, financial hardship and Medicaid  
32 eligibility with the fee implementation beginning at two hundred percent of the  
33 federal poverty guidelines;

34           (2) A minimum fee amount of five dollars to the maximum amount of one  
35 hundred dollars monthly, with the lead agency retaining the right to revise the  
36 fee schedule no earlier than the third year after the family cost participation  
37 effective date;

38           (3) An increased fee schedule for parents who have insurance and elect  
39 not to assign such right of recovery or indemnification to the lead agency;

40           (4) Procedures for notifying the regional office that a family is not  
41 complying with the cost participation fee and procedures for suspending services.

42           8. All amounts generated by family cost participation, insurance  
43 reimbursements, and Medicaid reimbursement shall be deposited to the fund  
44 created in section 160.925.

45           9. The lead agency may assign the collection of early intervention  
46 participation fees, payments, and public or private insurance to a designee,  
47 contractor, provider, third-party agent, or designated clearinghouse participating  
48 in the Part C early intervention system. Such fees, payments, or insurance

49 amounts shall be paid to the department, its designee, contractor, provider,  
50 third-party agent, or designated clearinghouse in a timely manner. Notice of  
51 collection procedures, schedule of fees or payments, and guidelines for inability  
52 to pay shall be made available to parents of eligible children.

53 **10. Notwithstanding the provisions of section 23.253, RSMo, to**  
54 **the contrary, the provisions of this section shall not sunset.**

160.925. 1. There is hereby created in the state treasury the "Part C  
2 Early Intervention System Fund" for implementing the provisions of sections  
3 160.900 to 160.925. Moneys deposited in the fund shall be considered state funds  
4 under article IV, section 15 of the Missouri Constitution. The state treasurer  
5 shall be custodian of the fund and shall disburse moneys from the fund in  
6 accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money  
7 in the fund shall be used solely for the administration of sections 160.900 to  
8 160.925. Notwithstanding the provisions of section 33.080, RSMo, to the  
9 contrary, any moneys remaining in the fund at the end of the biennium shall not  
10 revert to the credit of the general revenue fund. The state treasurer shall invest  
11 moneys in the fund in the same manner as other funds are invested. Any interest  
12 and moneys earned on such investments shall be credited to the fund.

13 **2. Notwithstanding the provisions of section 23.253, RSMo, to the**  
14 **contrary, the provisions of this section shall not sunset.**

376.1218. 1. Any health carrier or health benefit plan that offers or  
2 issues health benefit plans, other than Medicaid health benefit plans, which are  
3 delivered, issued for delivery, continued, or renewed in this state on or after  
4 January 1, 2006, shall provide coverage for early intervention services described  
5 in this section that are delivered by early intervention specialists who are health  
6 care professionals licensed by the state of Missouri and acting within the scope  
7 of their professions for children from birth to age three identified by the Part C  
8 early intervention system as eligible for services under Part C of the Individuals  
9 with Disabilities Education Act, 20 U.S.C. Section 1431, et seq. Such coverage  
10 shall be limited to three thousand dollars for each covered child per policy per  
11 calendar year, with a maximum of nine thousand dollars per child.

12 2. As used in this section, "health carrier" and "health benefit plan" shall  
13 have the same meaning as such terms are defined in section 376.1350.

14 3. In the event that any health benefit plan is found not to be required to  
15 provide coverage under subsection 1 of this section because of preemption by a  
16 federal law, including but not limited to the act commonly known as ERISA

17 contained in Title 29 of the United States Code, or in the event that subsection  
18 1 of this section is found to be unconstitutional, then the lead agency shall be  
19 responsible for payment and provision of any benefit provided under this section.

20 4. For purposes of this section, "early intervention services" means  
21 medically necessary speech and language therapy, occupational therapy, physical  
22 therapy, and assistive technology devices for children from birth to age three who  
23 are identified by the Part C early intervention system as eligible for services  
24 under Part C of the Individuals with Disabilities Education Act, 20 U.S.C. Section  
25 1431, et seq. Early intervention services shall include services under an active  
26 individualized family service plan that enhance functional ability without  
27 effecting a cure. An individualized family service plan is a written plan for  
28 providing early intervention services to an eligible child and the child's family  
29 that is adopted in accordance with 20 U.S.C. Section 1436. The Part C early  
30 intervention system, on behalf of its contracted regional Part C early intervention  
31 system centers and providers, shall be considered the rendering provider of  
32 services for purposes of this section.

33 5. No payment made for specified early intervention services shall be  
34 applied by the health carrier or health benefit plan against any maximum  
35 lifetime aggregate specified in the policy or health benefit plan if the carrier opts  
36 to satisfy its obligations under this section under subdivision (2) of subsection 7  
37 of this section. A health benefit plan shall be billed at the applicable Medicaid  
38 rate at the time the covered benefit is delivered, and the health benefit plan shall  
39 pay the Part C early intervention system at such rate for benefits covered by this  
40 section. Services under the Part C early intervention system shall be delivered  
41 as prescribed by the individualized family service plan and an electronic claim  
42 filed in accordance with the carrier's or plan's standard format. Beginning  
43 January 1, 2007, such claims' payments shall be made in accordance with the  
44 provisions of sections 376.383 and 376.384.

45 6. The health care service required by this section shall not be subject to  
46 any greater deductible, co-payment, or coinsurance than other similar health care  
47 services provided by the health benefit plan.

48 7. (1) Subject to the provisions of this section, payments made during a  
49 calendar year by a health carrier or group of carriers affiliated by or under  
50 common ownership or control to the Part C early intervention system for services  
51 provided to children covered by the Part C early intervention system shall not  
52 exceed one-half of one percent of the direct written premium for health benefit

53 plans as reported to the department of insurance on the health carrier's most  
54 recently filed annual financial statement.

55 (2) In lieu of reimbursing claims under this section, a carrier or group of  
56 carriers affiliated by or under common ownership or control may, on behalf of all  
57 of the carrier's or carriers' health benefit plan or plans providing coverage under  
58 this section, directly pay the Part C early intervention system by January  
59 thirty-first of the calendar year an amount equal to one-half of one percent of the  
60 direct written premium for health benefit plans as reported to the department of  
61 insurance on the health carrier's most recently filed annual financial statement,  
62 or five hundred thousand dollars, whichever is less, and such payment shall  
63 constitute full and complete satisfaction of the health benefit plan's obligation for  
64 the calendar year. Nothing in this subsection shall require a health carrier or  
65 health benefit plan providing coverage under this section to amend or modify any  
66 provision of an existing policy or plan relating to the payment or reimbursement  
67 of claims by the health carrier or health benefit plan.

68 8. This section shall not apply to a supplemental insurance policy,  
69 including a life care contract, specified disease policy, hospital policy providing  
70 a fixed daily benefit only, Medicare Supplement policy, hospitalization-surgical  
71 care policy, policy that is individually underwritten or provides such coverage for  
72 specific individuals and members of their families, long-term care policy, or  
73 short-term major medical policies of six months or less duration.

74 9. Except for health carriers or health benefit plans making payments  
75 under subdivision (2) of subsection 7 of this section, the department of insurance  
76 shall collect data related to the number of children receiving private insurance  
77 coverage under this section and the total amount of moneys paid on behalf of such  
78 children by private health carriers or health benefit plans. The department shall  
79 report to the general assembly regarding the department's findings no later than  
80 January 30, 2007, and annually thereafter.

81 **10. Notwithstanding the provisions of section 23.253, RSMo, to**  
82 **the contrary, the provisions of this section shall not sunset.**

[160.930. Pursuant to section 23.253, RSMo, of the Missouri  
2 sunset act:

3 (1) The provisions of the program authorized under sections  
4 160.900 to 160.925, section 162.700, RSMo, and section 376.1218,  
5 RSMo, shall automatically sunset two years after August 28, 2005,  
6 unless reauthorized by an act of the general assembly; and

7           (2) If such program is reauthorized, the program authorized  
8           under sections 160.900 to 160.925, section 162.700, RSMo, and  
9           section 376.1218, RSMo, shall automatically sunset twelve years  
10          after the effective date of the reauthorization of sections 160.900 to  
11          160.925, section 162.700, RSMo, and section 376.1218, RSMo; and

12          (3) Sections 160.900 to 160.925, section 162.700, RSMo, and  
13          section 376.1218, RSMo, shall terminate on September first of the  
14          calendar year immediately following the calendar year in which the  
15          program authorized under sections 160.900 to 160.925, section  
16          162.700, RSMo, and section 376.1218, RSMo, is sunset.]

✓

Bill

Copy